IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE R.BASANT

FRIDAY, THE 2ND NOVEMBER 2007 / 11TH KARTHIKA 1929

Crl.MC.No. 3349 of 2007()

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AGAINST THE JUDGEMENT/ORDER IN CRRP.2337/2006
CC.17/2003 of JUDL.MAGISTRATE OF FIRST CLASS-II(MOBILE),ALAPPUZHA

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PETITIONER:
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M. NAZAR, AGED 45 YEARS,
S/O. K.M. IBRAHIM, NISHI GARDENS, VELLAKKINAR,
ALAPPUZHA.

BY ADV. SRI.S.SHANAVAS KHAN

RESPONDENTS:
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1. A.M. RASHEED, AGED 46 YEARS,
S/O. M. ADIMA, SANIA MANZIL, ZACHARIA WARD,
ALAPPUZHA.

2. THE STATE OF KERALA,
REPRESENTED BY THE PUBLIC PROSECUTOR,
HIGH COURT OF KERALA, ERNAKULAM.

BY ADV. SRI.E.RAFEEK
PUBLIC PROSECUTOR SRI.M.S.BREEZ

THIS CRIMINAL MISC. CASE HAVING COME UP FOR ADMISSION ON 02/11/2007, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

**R.BASANT, J.**

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Crl.M.C.No.3349 of 2007

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Dated this the 2nd day of November 2007

**O R D E R**

The petitioner has been found guilty, convicted and sentenced in a prosecution under Section 138 of the Negotiable Instruments Act. The verdict of guilty and conviction have now become final after the disposal of the revision petition by this court. The petitioner faces the sentence of imprisonment till rising of court and to pay an amount of Rs.65,000/- as compensation. The petitioner has now come to this court to report to the court that the matter has been settled between him and the respondent/complainant. The respondent/complainant has also appeared before the court.

2. The learned counsel for the petitioner prays that by invoking the dictum in Sabu George v. Home Secretary [2007(1) KLT 982] the post revision composition may be accepted. Sabu George v. Home Secretary [2007(1) KLT 982] is not authority for the proposition that any and every post revision composition can or ought to be accepted by the court. If the composition in that case were not accepted, the accused would have been compelled to undergo a substantive sentence of imprisonment for a long period. In this case, the petitioner faces a sentence of

imprisonment till rising of court only. The compensation amount has admittedly been paid and discharged. I do not in these circumstances find any sufficient, satisfactory, compelling and exceptional reason to invoke the powers under Section 482 Cr.P.C.

3. The petitioner will certainly have to undergo the substantive sentence of imprisonment till rising of court. The petitioner/accused and the respondent/complainant can appear before the learned Magistrate and report to the learned Magistrate that the compensation amount has already been paid and discharged. If the learned Magistrate is satisfied about such payment,there can be no question of execution of the default sentence - notwithstanding the fact that the period prescribed for appearance has already elapsed. The last trace of doubt, if any, on this aspect is laid to rest by the decision in Girish v. Muthoot Capital Service (P) Ltd. [2007(1) KLT 16]

4. This petition is in these circumstances dismissed with the above observation.

**(R.BASANT, JUDGE)**

jsr // True Copy// PA to Judge

**R.BASANT, J.**

CRL.M.CNo.

ORDER

21ST DAY OF MAY2007